

FISCAL MEMORANDUM

HB 4197 – SB 4199

May 13, 2008

SUMMARY OF AMENDMENTS (016749, 016791, 017811, 017936, 017983, 017979): Amendment #016749 deletes all language after the enacting clause. Makes various revisions to the Sex Offender Registry (SOR) which includes setting the administrative costs collected from the offenders at \$150, expanding the definition of sexual offense to include kidnapping and solicitation, expanding the definition of violent sexual offense to include aggravated rape of a child. Requires certain information in the registry be provided to numerous agencies and groups. Requires sex offenders to provide Internet account information such as e-mail addresses, user names and aliases on the sex offender registry, and to notify their registering agency within three days, excluding holidays, of any changes to such information. Creates a Class E felony offense for a sexual offender or violent sexual offender to knowingly be upon or remain on the premises of any school building or school grounds, loiter within 500 feet of a school, or be in any conveyance owned, lease or contracted by a school to transport students. Creates a Class A misdemeanor for a sex offender or violent sex offender, whose victim was a minor, to knowingly impersonate a member of any profession, occupation or organization, including but not limited to, a teacher, instructor or social worker; officer or employee of the government; member of the military or armed services of the United States; or to pretend to be, dress as or impersonate a fictional character, clown, magician, puppeteer, or any type of performer who primarily performs for minors. Amendment #016791 deletes the language “(e)(1)-(10)” wherever it occurs and substitutes instead the language “(e)(1)-(13)”. Amendment #017811 defines statutory rape as a sexual offense, for purposes of the sex offender registry, if the defendant has one or more prior convictions for mitigated statutory rape, statutory rape or aggravated statutory rape. Amendment # 017936 prohibits a sex offender or violent sex offender from contacting any of the offender’s former victims or such victim’s immediate family members without consent of the victim or consent of the victim’s parent or guardian if the victim is a minor. Amendment # 017983 requires a sex offender released or discharged from a nursing home, assisted living facility, mental health institution or a sex offender who is no longer confined to home or a health care facility due to mental or physical disabilities to register within 48 hours with the appropriate registering agency. Amendment 017979 requires the Tennessee Bureau of Investigation (TBI) to obtain a copy of an offender’s death certificate, check the social security death index or obtain a copy of an accident report prior to removing the offender from the SOR.

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FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$26,000/One-Time

Other Fiscal Impact – Failure to enact this legislation will result in a loss of 10 percent (\$730,000) of the federal Byrne grant funds.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Revenue - \$412,500

Increase State Expenditures – \$15,000/One-Time

\$259,100/Recurring

\$410,000/Incarceration*

Increase Local Revenue – Not Significant

Increase Local Expenditures – Not Significant

Other Fiscal Impact – Failure to enact this legislation will result in a loss of 10 percent (\$730,000) of the federal Byrne grant funds.

Assumptions applied to amendments:

- Of the \$150 administrative costs collected from offenders, \$100 dollars will be retained by the registering agency and \$50 will be remitted to the TBI.
- According to TBI, there are over 11,000 registered sex offenders in the state. It is estimated that 25 percent of the registered offenders will be indigent and will not be able to pay the administrative costs resulting in 8,250 (11,000 x 75%) registered offenders paying the required costs.
- The estimated revenue collected from the required costs is estimated to be \$1,237,500 (8,250 x \$150). Of this amount, \$412,500 (8,250 x \$50) will be remitted to TBI.
- The remaining \$825,000 (\$1,237,500 - \$412,500) will be retained by the registering agency. Currently, all administrative costs collected are retained by the registering agency. It is estimated that the net impact to the revenue collected by registering agencies will be not significant.
- TBI will need a Law Enforcement Information Coordinator to handle the administrative duties associated with the changes to the Sex Offender Registry (SOR).
- One-time expenditures of \$15,000 office furniture, computers, telephones, training and other related supplies and equipment for one new position.

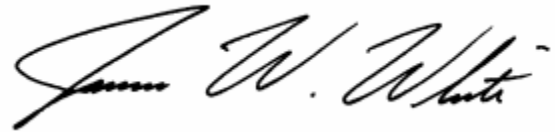
- Any cost associated with revising the registration form to include the additional information regarding the sex offender's Internet account information and transmitting such information electronically is estimated to be not significant and could be handled within existing resources of the TBI without an increased appropriation.
- Recurring expenditures of \$100,684 include salary and benefits of \$54,234 plus \$46,450 in travel, printing, communications, uniforms, vehicles and vehicle maintenance, office rental and insurance, supplies and other related operating expenses.
- According to TBI, there will be an increase in recurring expenditures of \$158,000 for maintenance to the SOR database (\$108,000) and SOR software license (\$50,000).
- The Bureau will pay for approximately 20 out-of-state death certificates at a cost of \$20 each per year which will result in a recurring expenditure of \$400. According to the Department of Safety, the Department will furnish a copy of an accident report to the TBI or other governmental agencies at no charge.
- The TBI's website reflects 10,277 individuals are on the sexual offender registry. The Department of Correction (DOC) estimates that 0.4 percent (41) of the registered offenders will be convicted of a Class E felony for being on school property when minors are present.
- According to the U.S. Census Bureau, population growth in Tennessee has averaged 1.09 percent per year for the past ten years, yielding a projected compound population growth of 13.6 percent over the next 10 years. Population growth will result in four additional offenders in the tenth year as a result of this bill. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 45 offenders.
- According to DOC, 30 offenders will serve 0.3 years for a first violation, 12 offenders will serve 0.49 years for a second violation, and three offenders will serve one year for a third and/or subsequent violation.
- According to DOC, the average operating cost per inmate per year for calendar year 2008 is \$62.78. The cost per inmate at 0.3 years is \$6,879.43 (\$62.78 x 109.58 days). The total additional cost for 30 offenders is \$206,382.90 (\$6,879.43 x 30).
- The cost per inmate at 0.49 years is \$11,235.74 (\$62.78 x 178.97 days). The total additional cost for 12 offenders is \$134,828.88 (\$11,235.74 x 12). The cost per inmate at one year is \$22,930.40 (\$62.78 x 365.25 days). The total additional cost for three offenders is \$68,791.20 (\$22,930.40 x 3).
- The total estimated incarceration cost for 45 offenders is \$410,002.98.
- The Board of Probation and Parole (BOPP) would need to change the special conditions form and manual for registered sex offenders under their supervision to include this prohibition. Such documents are electronic, therefore expenses would be minimal and BOPP would not require additional resources.

- There will not be a sufficient additional number of misdemeanor prosecutions for state or local governments to experience any significant increase in revenues or expenditures.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

/lsc